

PTO/5B/21 (09-04)

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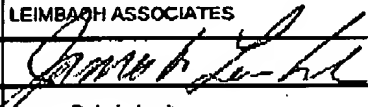
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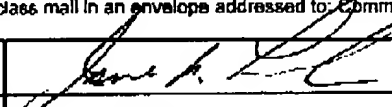
TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	09/548,727	RECEIVED CENTRAL FAX CENTER AUG 30 2006
	Filing Date	04/13/2000	
	First Named Inventor	Johan C. Tolstra	
	Art Unit	2616	
	Examiner Name	Vincent F. Boccia	
Total Number of Pages in This Submission	9	Attorney Docket Number	PHN 1/410

ENCLOSURES (Check all that apply)		
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND
INTERFERENCES

In re Application of
Johan C. Talstra, et al.

METHOD AND SYSTEM OF
COPY PROTECTION OF
INFORMATION

Serial No. 09/548,727

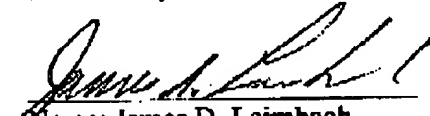
Filed: April 13, 2000

Confirmation No. 7176

Group Art Unit: 2616

Examiner: Vincent P. Boccio

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Sir:

REPLY BRIEF UNDER 37 C.F.R. § 41.41

This Reply Brief is being filed in response to the Examiner's Answer mailed June 30, 2006 for the above referenced application.

The Commissioner is hereby authorized to charge any fees associated with the filing of this Reply Brief, including extension fees but excluding issue fees, to Account No. 50-3745, and to credit any overpayments to the same account.

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I. The rejection of appealed claims 7, 8 and 12-21 under the provisions of 35 U.S.C. §102(b) as being anticipated by Linnartz

Appealed claims 7, 8 and 12-21 are rejected under the provisions of 35 U.S.C. §102(b) as being anticipated by *Linnartz* (U.S. Patent No. 5,915,027). The examiner's position is that *Linnartz* disclose every element defined by appealed claims 7, 8 and 12-21.

The Examiner's Answer on the top of page 10 states that the definition of the word "derived" is given the broadest reasonable interpretation as defined in the standard Webster Dictionary. The Examiner's Answer on page 10 further asserts that "the word "derived" should be interpreted based on the known scope of the word rather than the specifics of applicants specification, which the claim language only reflects."

The appellants, respectfully, point out that the MPEP at §2111.01 states that the words of a claim must be given their "plain meaning" unless they are defined in the specification. The MPEP at §2111.01 further states that "an applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994)."

The deriving of a first characteristic relates to summaries of selected parts of the information as discussed on page 8, lines 31-34. The rejection does not address "deriving" as used within the present invention. There is no disclosure or suggestion of "deriving" by *Linnartz* as used within the present invention.

As discussed in the Appeal Brief filed by the appellants, the exchanging copy protection information regarding a content of information contained on an information carrying medium by a reading device deriving of a first characteristic of the content of information. The characteristic of the information is used interchangeably with a summary of the information. Page 5, lines 9-12 of the specification clearly states that the summaries of selected parts of the received or transmitted information are used as characteristics, therefore, the reading and application devices comprise means for summarizing information that is transmitted and received. The deriving of a first characteristic relates to summaries of selected parts of the information as

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discussed on page 8, lines 31-34. Page 11, lines 9-17 of the specification to the present invention clearly states that a summary once per second or per ten seconds should be exchanged and that the algorithm of Fig. 6 waits for 1.6 seconds, and then basically selects the K_0 'th sector after that point, where K_0 is derived from the shared secret. Therefore, the term derived is clearly defined by the specification to the present invention.

Accordingly, the appellants assert that the presumption that the claim term derived be given its' the ordinary and customary definitions that the examiner alludes to in the Examiner's Answer has been rebutted by the clear definition of the derived that is different from its ordinary and customary meanings that the examiner refers to.

The rejection does not address meaning of "derive", "derived" or "deriving" as defined by the specification to the present invention. There is no disclosure or suggestion of "derived" or "deriving" by *Linnartz* as used within the present invention. The rejection apparently used "obtains" as equivalent to "derives". For the above stated reasons, "deriving of a first characteristic relates to summaries of selected parts of the information" is not disclosed or suggested by "obtained". As stated above, a summary once per second or per ten seconds should be exchanged and that the algorithm selects the K_0 'th sector after that point, where K_0 is derived from the shared secret. Therefore, the term derived is clearly defined by the specification to the present invention.

Therefore, all the elements defined by appealed claim 7 are not found within *Linnartz*.

The content transmitted from the playback device to the receiver device contains the watermark. Note that the content that is compared against the retrieved watermark is not disclosed or suggest as being derived from the content that is transmitted from the playback device to the receiver device.

The Examiner's Answer on page 12 address the appellants' assertion contained in the Appeal Brief and adds that *Linnartz* teaches that physical marks are generated with seeds, while generating seeds from the physical marks is un-feasible. This is in agreement with the statements made by appellants in the Appeal Brief.

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The Examiner's Answer, beginning in the middle of page 13, addresses the discussion of *Linnartz* contained in the Appeal Brief wherein the appellants state that there is no disclosure or suggestion within *Linnartz* that the ticket be transmitted from the drive to the decoder. The Examiner's Answer, in the middle of page 14, states that even if the ticket is compared with the watermark, both signals are transmitted to the comparator. The appellants assert that this statement by the examiner is tantamount to an admission by the examiner that there is no disclosure or suggestion within *Linnartz* that the ticket be transmitted from the drive to the decoder. Essentially the examiner is stating that the ticket must get to the comparator somehow, therefore, it is transmitted. The appellants assert that this statement is an admission by the examiner that there is no disclosure or suggestion within *Linnartz* that the ticket be transmitted from the drive to the decoder.

On the bottom of page 13, the Examiner's Answer cites the Abstract of *Linnartz* and on the top of page 14 states that the player (actually playback device) derives the watermark. The Abstract of *Linnartz* clearly states that the watermark is extracted by the decoder and the decoder communicates retrieved watermark information to the playback device. The playback device checks the watermark against supplemental information, such as a physical mark or control signal. There is nothing within the Abstract of *Linnartz* to substantiate the assertions made by the examiner within the Examiner's Answer that the player (playback device) derives the watermark.

Appealed claims 7, 8 and 12

The Examiner's Answer on page 15 addresses appealed claims 7, 8 and 12 and states that the examiner does not find any claim language including the word summary or summaries. Pages 13-14 of the Appeal Brief submitted by the appellants states that the characteristic of the information is used interchangeably with a summary of the information. Page 5, lines 9-12 of the specification clearly states that the summaries of selected parts of the received or transmitted information are used as characteristics. Therefore, characteristics are defined by the specification as summaries of selected parts of the received or transmitted information. The term characteristics must be interpreted in a manner consistent with the definition that is supplied by the specification, which are summaries of selected parts of the received or transmitted information. The appellants, respectfully, assert that the examiner is attempting to interpret claim terminology in

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a manner that is completely inconsistent with the definitions that are provided by the specification to the present invention.

Furthermore, the examiner is attempting to use these claim terms out of the context for which they are used in the claims. For example, the Examiner's Answer on page 15 addresses statements made by the appellants on page 16 of the Appeal Brief. In response to statements made by the appellant in the Appeal Brief that "the physical mark within *Linnartz* is not transmitted by the reader," the examiner makes the statement that "all data on any wire can said to be transmitted." The examiner is completely ignoring the basic fact that the physical mark within *Linnartz* is not transmitted by the reader. The appellants, respectfully, request that the Board read the claim terminology in proper context. Therefore, if the claim reads that a reader transmits information, it is not sufficient that the same information appear anywhere on any wire within *Linnartz*.

Appealed claims 14 and 16-21

The appellants, respectfully, submit that the examiner's comments on pages 16 and 17 of the Examiner's Answer are self contradictory. The examiner states that that the drive within *Linnartz* hashes, adds a random number and signs the MPEG stream. The examiner then alleges that this hashing, adding a random number and signing of the content is equivalent to deriving characteristics (defined as summaries) of the content contained on the medium. The appellants assert that the MPEG is the content on the medium and that the hashes, random numbers and signatures are in addition to the content. The examiner fails to show that the hashes, random numbers and signatures are in any way related to the content contained on the medium.

II. The rejection of appealed claims 1-4, 6 and 9-11 under the provisions of 35 U.S.C. §103(a) as being obvious over *Linnartz* in view of *Cox et al.*

The examiner on page 18 of the Examiner's Answer states that *Cox et al.* (U.S. Patent No. 5,915,027) was introduced with a detailed analysis in the Non-final Office Action Serial No. 09/548,727

dated September 22, 2004. This detailed analysis reads as follows:" "Cox teaches watermarking video (col. 2, lines 46-49 fro example), providing watermarks every Nth frame or to provide periodic watermarking thru-out the video, further content owners wish to protect each and every frame, as taught by Cox." The appellants, respectfully, point out that the appealed claims were amended since this analysis of *Cox et al.* and no further analysis has been provided. Therefore, the rejection fails to indicate how *Cox et al.* reads on the appealed claims since the amendment made in the response to the September 22, 2004 Office Action.

Cox et al. teaches providing watermarks every Nth frame or to provide periodic watermarking thru-out the video,

Appealed claim 1

Appealed claim 1 defines subject matter for a method of copy protection of information stored on an information carrying medium to be read from a reading device and transmitted to an application device for playback and/or recording for the reading device to continuously derive and report to the application device a first characteristic of the content of the information transmitted from the reading device to the application device, wherein the application device continuously derives and reports back to the reading device a second characteristic of the content of the information received by the application device. The specification to the present invention defines characteristic of the information as a summary of the information. Page 5, lines 9-12 of the specification clearly states that the summaries of selected parts of the received or transmitted information are used as characteristics. *Cox et al.* teaches providing watermarks which are not summaries. Therefore, all the claimed elements are not found in the rejection.

Furthermore, the rejection does not provide any suggestion for making the combination of *Cox et al.* with *Linnartz*. Still further, the rejection does not provide any reasonable expectation of success. Therefore, the rejection does establish a *prima facie* case of obviousness.

Appealed claim 2

Appealed claim 2 defines the subject matter for the method of appealed claim 1, wherein summaries of the transmitted and of the received information are used as characteristics.

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There is no disclosure or suggestion within *Linnartz* or *Cox et al.*, either alone or in combination, for summaries of the transmitted and of the received information to be used as characteristics.

Appealed claim 3

Appealed claim 3 defines the subject matter for the method of appealed claim 1, wherein summaries of selected parts of the transmitted and of the received information are used as characteristics. There is no disclosure or suggestion within *Linnartz* or *Cox et al.*, either alone or in combination, summaries of selected parts of the transmitted and of the received information are used as characteristics.

Appealed claim 4

Appealed claim 3 defines the subject matter for the method of appealed claim 3, wherein the selection of the parts of information to be summarized is based on a secret shared between the reading device and the application device. There is no disclosure or suggestion within *Linnartz* or *Cox et al.*, either alone or in combination, for the selection of the parts of information to be summarized is based on a secret shared between the reading device and the application device.

Appealed claim 9

The Examiner's Answer asserts that since the comparator receives a signal that it is transmitted in accordance with the limitations of appealed claim 9. This is wholly inconsistent with the recitation of claim 9.

Appealed claim 10

Appealed claim 10 defines subject matter for an application device 30 for receiving a content of information contained on a record carrier 1 from a reading device 20 for playback and/or recording as discussed page 4, lines 31-34. There is no disclosure or suggestion within *Linnartz* reporting first and second characteristic from content contained on the information carrying medium and comparing the first and second characteristics for a match. The appellants respectfully point out that the physical mark within *Linnartz* is not transmitted by the reader.

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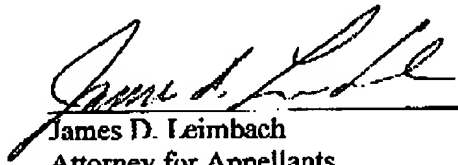
Furthermore, within *Linnartz*, the hash signal is transmitted by the reader. The decoder, within *Linnartz*, does not transmit a hash signal. The signatures within *Linnartz* are not characteristics of the content of information that is contained on the information carrying medium. Therefore, *Linnartz* can not perform a comparison of the first and second characteristics as defined by appealed 10.

Conclusion

In summary, the examiner's rejections of the claims are believed to be in error for the reasons explained above. The rejections of each of claims 1-4, 6, and 9-11 should be reversed.

The Commissioner is authorized to charge fees associated with the filing of this brief to Account No. 50-3745 including any underpayments, excluding the payment of any issue fees, and to credit any overpayments to the same account.

Respectfully submitted,



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